S T A T E O F N E W Y O R K

5305--A

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to enacting the "non-partisan election act" relating to the nomination and designation of candidates for elected office and the form of the ballots for such offices; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "non-partisan election act".

S 2. Subdivisions 2, 3 and 7 of section 6-104 of the election law, subdivision 7 as amended by chapter 8 of the laws of 1978, are amended to read as follows:

2. The state committee shall make a decision by majority vote. The person receiving the majority vote shall be the party's designated candidate for nomination[, and all other persons who shall have received twenty-five percent or more of the vote cast on any ballot shall have the right to make written demand, duly acknowledged, to the state board of elections that their names appear on the primary ballot as candidates for such nomination. Such demand shall be made not later than seven days after such meeting and may be withdrawn in the same manner within fourteen days after such meeting].

3. In the absence of a party rule forming and designating the members of a committee to fill any vacancy in designations which may occur after the state committee has adjourned its meeting and before the [primary] GENERAL election, the state committee shall also enact a resolution forming such a committee and selecting the members of same.

7. Within four days after such meeting, the state committee shall file with the state board of elections.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(a) The names of persons who have received the designation of the state committee and the offices for which designated[, and the name of each person who received twenty-five percent or more, of the vote on any ballot and the offices for which they received such vote].

(b) The names of the persons selected as the committee to fill vacancies or a certified copy of the party rule forming and empowering such a committee to fill vacancies.

S 3. Subdivision 1 of section 6-108 of the election law, as amended by chapter 160 of the laws of 1996, is amended to read as follows:

1. [In any town in a county having a population of over seven hundred fifty thousand inhabitants, as shown by the latest federal decennial or special population census, party nominations of candidates for town offices shall be made at the primary preceding the election.] In [any other] EVERY town, nominations of candidates for town offices shall be made by caucus [or primary election as the rules of the county committee shall provide, except that the members of the county committee from a town may adopt by a two-thirds vote, a rule providing that the party candidates for town offices shall be nominated at the primary election. If a rule adopted by the county committee of a political party or by the members of the county committee from a town, provides that party candidates for town offices, shall be nominated at a primary election, such rule shall not apply to nor affect a primary held less than four months after a certified copy of the rule shall have been filed with the board of elections. After the filing of such a rule, the rule shall continue in force until a certified copy of a rule revoking the same shall have been filed with such board at least four months before a subsequent primary]. Such a caucus shall be held no earlier than the first day on which designating petitions [for the fall primary election] may be signed.

S 4. Section 6-110 of the election law, as amended by chapter 9 of the laws of 1978, is amended to read as follows:

S 6-110. Party nominations; public office. All other party nominations of candidates for offices to be filled at a general election[, except as provided for herein,] shall be made [at the primary election] BY THE FILING OF NOMINATING PETITIONS PURSUANT TO THIS ARTICLE.

S 5. Section 6-116 of the election law, as amended by chapter 373 of the laws of 1978, is amended to read as follows:

S 6-116. Party nominations; election to fill a vacancy. A party nomination of a candidate for election to fill a vacancy in an elective office required to be filled at the next general election, occurring after seven days before the last day for circulating designating petitions or after the holding of the meeting or convention to nominate or designate candidates for such, shall be made[, after the day of the primary election,] by a majority vote of a quorum of the state committee if the vacancy occurs in an office to be filled by all voters of the state, and otherwise by a majority vote of a quorum of the members of a county committee or committees last elected in the political subdivision in which such vacancy is to be filled, or by a majority of such other committee as the rules of the party may provide. A certificate of nomination shall be filed as provided for herein.

S 6. Section 6-118 of the election law, as amended by chapter 9 of the laws of 1978, is amended to read as follows:

S 6-118. [Designation and nomination] NOMINATION by petition. Except as otherwise provided by this article, the [designation] NOMINATION of a candidate for [party nomination at a primary election] ELECTION TO AN OFFICE TO BE FILLED AT AN ELECTION and the nomination of a candidate for

election to a party position to be elected at a primary election shall be by designating petition.

S 7. Subdivision 1 of section 6-120 of the election law is amended to read as follows:

1. A petition, except as otherwise herein provided, for the purpose of designating any person as a candidate for party nomination [at a primary election] shall be valid only if the person so designated is an enrolled member of the party referred to in said designating petition at the time of the filing of the petition.

S 8. Sections 6-130, 6-132, 6-134 and 6-136 of the election law are REPEALED.

S 9. Section 6-138 of the election law, the section heading and subdivision 2 as amended by chapter 9 of the laws of 1978, subdivision 1 as amended by chapter 709 of the laws of 1996, subdivision 3 as amended by chapter 305 of the laws of 1992, paragraph a of subdivision 3 as amended by chapter 306 of the laws of 1992, subdivision 4 as amended by chapter 88 of the laws of 1995, is amended to read as follows:

S 6-138. [Independent nominations] NOMINATIONS; rules. 1. [Independent nominations] NOMINATIONS for public office shall be made by a petition containing the signatures of registered voters of the political unit for which a nomination is made who are registered to vote. The name of a person signing such a petition for an election for which voters are required to be registered shall not be counted if the name of a person who has signed such a petition appears upon another valid and effective petition [designating or] nominating the same or a different person for the same office.

2. [Except as otherwise provided herein, the form of, and the rules for a nominating petition shall conform to the rules and requirements for designating petitions contained in this article.

3. a. The name selected for the independent body making the nomination shall be in English characters and shall not include the name or part of the name or an abbreviation of the name or part of the name, nor shall the emblem or name be of such a configuration as to create the possibility of confusion with the emblem or name of a then existing party, or the emblem or name of an independent body selected by a previously filed independent nominating petition for the same office.

b. Notwithstanding the requirements of paragraph a of this subdivision, if the emblem or name selected for an independent body on any independent nominating petition is the same as that selected by any previously filed independent nominating petition for the same office, the board of elections with which such later petition was filed shall, not later than two days after the filing of such later filed petition, send notice of such duplicate selection of emblem or name by first-class mail, to the candidate for such office who was nominated by such later filed petition, and that the candidate to whom such notice is required to be sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different emblem or name.

c.] A. A person who has been nominated or who expects to be nominated as the candidate of an independent body for the office of President of the United States at any election for such office may, not later than three days after the last day to file nominating petitions, file with the state board of elections, a special certificate which shall be irrevocable, stating that such person does not wish to permit candidates for any other office, except the office of Vice-President of the United States, to appear on the ballot with the same name and emblem as the

independent body which has nominated or will nominate such candidate for the office of President.

[d.] B. Not later than seven days after the last day to file nominating petitions, the state board of elections shall notify each local board of elections of the name of each candidate for President of the United States who has filed such a special certificate, together with the name and emblem of the independent body selected on the petition which nominated such candidate.

[e. If any candidate has been nominated for any other office by a petition which selected the same name or emblem for an independent body as the name or emblem selected on the petition which nominated a candidate for President of the United States who has filed a special certificate pursuant to paragraph c of this subdivision, the board of elections with which the petition nominating such candidate for such other office was filed shall, not later than ten days after the last day to file nominating petitions, send to each such candidate, by first class mail, notice that a special certificate pursuant to paragraph c of this subdivision has been filed and that the candidate to whom such notice is sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different name and emblem.

f. If such a petition shall not show an emblem, or if the petition shall fail to select a name for such independent body, or if pursuant to the provisions of paragraph b or paragraph e of this subdivision, a candidate shall fail to select another emblem or name for such independent body, the officer or board in whose office the petition is filed shall select an emblem or name or both to distinguish the candidates nominated thereby. The name and emblem shown upon such petition or selected by a candidate authorized to make such selection by paragraph b or paragraph e of this subdivision, or selected by an officer or board shall also conform to the requirements of this chapter with respect to names or emblems permitted to be selected by a party.

g. Nothing contained in this subdivision shall preclude a court of competent jurisdiction from rejecting an independent nominating petition if the court determines that fraud was involved in the selection of a name or emblem.

4.] 3. A signature made earlier than six weeks prior to the last day to file [independent] petitions shall not be counted. A signature on [an independent] A petition for a special election made earlier than the date of the proclamation calling the special election shall not be counted.

S 10. Section 6-140 of the election law, as amended by chapter 709 of the laws of 1996, paragraph a of subdivision 1 as amended by chapter 235 of the laws of 2000, paragraph b of subdivision 1 as amended by chapter 246 of the laws of 2009, subdivision 2 as amended by chapter 447 of the laws of 2006, is amended to read as follows:

S 6-140. [Independent nominations] NOMINATIONS; form of petition. 1. a. Each sheet of [an independent] A nominating petition shall be signed in ink, shall contain the following information and shall be in substantially the following form:

I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be

held on the ..... day of ....., 20...., [and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) and ..... (fill in emblem) as the emblem of such body].

Name of Candidate	Public Office	Place of residence (also post office address if not identical)
.....	.....	.....
.....	.....	.....

[I do hereby appoint ..... (here insert the names and addresses of at least three persons, all of whom shall be registered voters within such political unit), as a committee to fill vacancies in accordance with the provisions of the election law.]

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer	Residence
.....	.....	.....
.....	.....	.....
		Town or city (except in the city of New York, the county)
		.....
		.....

b. There shall be appended at the bottom of each sheet a signed statement of a witness who is a duly qualified voter of the state. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he or she had been duly sworn. The form of such statement shall be substantially as follows:

STATEMENT OF WITNESS

I, ... (name of witness) state: I am a duly qualified voter of the State of New York and now reside at ..... (residence address).

Each of the individuals whose names are subscribed to this petition sheet containing ..... (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date: ....

Signature of Witness

Witness identification information:

The following information must be completed prior to filing with the board of elections in order for this petition sheet to be valid.

Town or City	County
.....	.....

2. In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public or commissioner of deeds shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself or herself, said that the foregoing statement made and subscribed by him or her, was true.

Date: .....

.....
(Signature and official title
of officer administering oath)

3. The state board of elections shall prepare a sample form of [an independent] A nominating petition which meets the requirements of this section and shall distribute or cause such forms to be distributed to each board of elections. Such forms shall be made available to the public upon request, by the state board of elections and each such board. Any petition that is a copy of such a sample shall be deemed to meet the requirements of form imposed by this section.

S 11. Section 6-142 of the election law, as amended by chapter 79 of the laws of 1992, paragraph (d-1) of subdivision 2 as amended by chapter 418 of the laws of 1993, is amended to read as follows:

S 6-142. [Independent nominations] NOMINATIONS; number of signatures. 1. [An independent] A nominating petition for candidates to be voted for by all the voters of the state must be signed by at least fifteen thousand voters, of whom at least one hundred shall reside in each of one-half of the congressional districts of the State.

2. [An independent] A nominating petition for the nomination of candidates for an office to be filled by the voters of any other political unit must be signed by voters numbering five per centum of the total number of votes cast for governor at the last gubernatorial election in such unit, excluding blank and void votes, except that not more than three thousand five hundred signatures shall be required upon any such petition for any office to be filled in any political subdivision of the state wholly outside the city of New York, and not more than the following numbers of signatures shall be required upon any such petition for the following public offices respectively:

(a) for any office to be filled in any county or portion thereof outside the city of New York, one thousand five hundred;

(b) for any office to be filled by all the voters of the city of New York, seven thousand five hundred;

(b-1) for any office to be filled by all the voters of any two counties in such city, four thousand;

(c) for any office to be filled by all the voters of any county or borough in such city, four thousand;

(d) for any office to be filled by all the voters of any municipal court district, three thousand signatures;

(d-1) for any office to be filled in the city of New York by all the voters of any city council district, two thousand seven hundred;

(e) for any office to be filled by all the voters of any congressional district, three thousand five hundred;

(f) for any office to be filled by all the voters of any state senatorial district, three thousand;

(g) for any office to be filled by all the voters of an assembly district, one thousand five hundred;

(h) for the office of trustee of the Long Island Power Authority, five hundred;

(i) for any office to be filled by the voters of any political subdivision contained within another political subdivision except as herein otherwise provided, not to exceed the number of signatures required for the larger subdivision.

S 12. Section 6-152 of the election law is REPEALED.

S 13. Sections 6-160, 6-162, 6-164 and 6-166 of the election law are REPEALED.

S 14. Subdivisions 2 and 8 of section 7-104 of the election law, as amended by chapter 165 of the laws of 2010, are amended to read as follows:

2. [The names of parties or independent bodies which contain more than fifteen letters may, whenever limitations of space so require, be printed on the ballot in an abbreviated form.] In printing the names of candidates whose full names contain more than fifteen letters, only the surname must be printed in full. The officer or board charged with the duty of preparing the ballots shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his name shall be printed. If no such indication is received from such candidate within the time specified in the request, such officer or board shall make the necessary determination.

8. With respect to candidates for the offices of governor and lieutenant governor [of a party or independent body], ballots shall be printed so that the names of such candidates for both offices shall appear in the same row or column, with the name of the candidate for governor appearing first and the ballot shall be so adjusted that both offices are voted for jointly [and have but one designating letter or number].

S 15. Subdivisions 4, 5 and 7 of section 7-104 of the election law are REPEALED.

S 16. Subdivisions 2, 7 and 11 of section 7-106 of the election law, subdivision 7 as amended and subdivision 11 as renumbered by chapter 165 of the laws of 2010, are amended to read as follows:

2. All paper ballots of the same kind for the same polling place shall be identical. A different, but in each case uniform style and size of type, shall be used for printing the names of candidates, the titles of offices, [political designations,] and the reading form of all questions submitted. The names of candidates shall be printed in capital letters in black-faced type.

7. Each such ballot shall be printed in sections in which the candidates' names [and political designations], the ballot proposals and other requisite matter shall each be boxed in by heavy black perpendicular lines of equal width. In each such section shall be voting ovals or squares which voters may fill in. If applicable, ovals or squares shall be provided next to the blank spaces provided for a voter to write in a name.

11. [The names of parties or independent bodies which contain more than fifteen letters may, whenever limitations of space so require, be printed on the ballot in an abbreviated form.] In printing the names of candidates whose full names contain more than fifteen letters, only the surname must be printed in full. The officer or board charged with the duty of preparing the ballots shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his name shall be printed. If no such indication is

received from such candidate within the time specified in the request, such officer or board shall make the necessary determination. No emblem shall occupy a space longer in any direction than the voting square to which it relates.

S 17. Section 7-114 of the election law is REPEALED.

S 18. Section 7-116 of the election law, subdivision 2 as amended by chapter 234 of the laws of 1976, subdivision 3 as amended by chapter 9 of the laws of 1978, subdivision 3-a as added by chapter 143 of the laws of 1996, subdivision 5 as amended by chapter 279 of the laws of 1992, the second undesignated paragraph of subdivision 6 as amended by chapter 121 of the laws of 1997, is amended to read as follows:

S 7-116. Ballots; order of names on. 1. In printing the names of candidates on the ballot, the [candidate or candidates of the party which polled for its candidate for the office of governor at the last preceding election for such office the highest number of votes, shall be row or column A or one and the candidates of the other parties shall be placed on such ballot in descending order of such votes.

2. The] officer or board who or which prepares the ballot shall determine the order in which shall appear[, below] the names of [party] THE candidates [the nominations made only by independent bodies. Such officer or board also shall determine the order in which shall be printed, in a section of such ballot the names of two or more candidates nominated by one party or independent body, for an office to which two or more persons are to be elected; provided, however, that any such candidate may, by a writing filed with such board or officer not later than one week after the adjournment of the convention or one week after the primary election nominating him, or otherwise not later than two days after the filing of the petition or certificate nominating him, demand that such order be determined by lot, and in that case such order shall be so determined, upon two days notice by mail given by such board or officer to each candidate for such office. The state board of elections shall perform the duties required by this subdivision in all cases affecting nominations filed in its] FOR EACH PUBLIC office.

[3. The officer or board with whom or which are filed the designations for a public office or party position shall determine by lot, upon two days notice by mail given by such board or officer to each candidate for such office or position and to the committee, if any, named in the designating petition, the order in which shall be printed on the official primary ballot, under the title of the office or position, the names of candidates for public office, the names of candidates for a party position to which not more than one person is to be elected, and the groups of names of candidates for party position where two or more persons are to be elected thereto and any petition designates two or more persons therefor, provided, however, that whenever groups of names for more than one party position are designated by the same petition, the order in which they shall be printed on the official primary ballot shall be determined by a single lot. Candidates for delegate or delegates and alternate delegate or delegates to conventions designated by the same petition shall, for the purpose of this subdivision, be treated as one group. The names of candidates, if any, for a party position to which two or more persons are to be elected, who are designated by individual petitions and not in a group shall be printed below such group or groups, in such order between themselves, as such officer or board shall determine by lot upon the notice specified in this subdivision. The names within a group of candidates designated for party position by one petition shall be printed in the same order in which they appear in the

petition, unless they appear in a different order on different pages of the petition, in which case their order within the group shall be determined by such officer or board by lot upon the notice specified in this subdivision. Candidates for members of a state committee designated by a single petition shall, for the purposes of this subdivision, be treated as one group. However, the notice to a committee of the drawing need not be mailed to more than five members, if there be that many, and as to offices or party positions for which designating petitions are filed with the board of elections of the city of New York the notice shall be given to the committees only.

3-a. The state board of elections shall prescribe the method, or two or more alternative methods, for making the determinations by lot required by subdivisions two and three of this section. Each county board of elections shall adopt one of such methods at least ninety days before any election to which such method shall apply.

4.] 2. If a vacancy in a designation or nomination be filled after the making, in the manner provided in this section, of a determination of the order in which the names of candidates for the office or position are to be printed, the name of the candidate designated or nominated to fill such vacancy shall be printed in the place so determined for the original candidate.

[5. The titles of public offices shall appear on ballots for primary elections in the same consecutive order that they will appear on the general election ballot. The titles of the party positions shall appear in the following order: member of state committee, assembly district leader, associate assembly district leader, members of county committee in the city of New York, delegate or delegates to conventions, alternate delegate or delegates to conventions, and members of county committee in counties outside of the city of New York. Where, pursuant to the rules of the county committee, the party position involved is that of assembly district leader or associate assembly district leader for a part of an assembly district, such part shall be so indicated in the title on the ballot.

6. In the city of New York, the ballot on the voting machine for primary elections shall conform to the following additional provisions:

The names of the candidates designated for such public office or party position in the primary of a party shall be placed under the title of the office or position in the alphabetical order of their surnames, in the first or lowest numbered assembly district and election district of any political unit or subdivision within a county. If candidates' surnames are identical, their given or first name shall determine their order. Thereafter the names shall be rotated by election districts by transposing the first named candidate to the bottom of the order at each succeeding election district, so that each name shall appear first and in each other position in an equal number, as nearly as possible, of the election districts and except, further, that where two or more candidates are to be elected to the same party position, the names of candidates for such a position which appear on the same designating petition shall be grouped together on the ballot in the order in which their names appear on the designating petition and the group rotated alphabetically in relation to other groups or individual candidates according to the surname of the first person on the designating petition of such group. Groups of candidates for delegate and alternate delegate, and groups of candidates for male and female delegate and male and female alternate delegate to the same convention designated on the same petition shall be rotated together alphabetically in relation to other

groups or individual candidates according to the surname of the first person listed on such designating petition in the group of candidates for whichever of such delegate or alternate delegate positions will appear first on the voting machine. If the rules of a party committee provide for equal representation of the sexes among the members of a state committee elected from each unit of representation, elections for male and female members of such a committee from a single unit of representation shall be conducted as elections for two different party positions. Notwithstanding the provisions of this paragraph, if the board of elections has assigned numbers to the candidates for an office or position because of identical or similar names among such candidates, the names of such candidates shall be placed under the title of such office or position in the order of such numbers in such first or lowest numbered district, and the names shall not be rotated by election district. Such names shall appear in the identical order on each ballot in each election district.

County committee candidates or groups of candidates shall be printed within the first election district of each assembly district or part thereof, according to the priority of filing of designating petitions and they shall then be rotated by election district by placing the candidate or group of candidates designated in the same petition as the candidate or group of candidates which was printed first in an election district at the bottom of the order in the next succeeding election district in which a candidate or group of candidates designated in such petition appears on the ballot.

In cases where a name is added to or removed from the ballot by court order too late to make a complete adjustment to these requirements feasible, the name may be added at the bottom of the list of candidates in all election districts, or removed from the ballot in all election districts without changing the previously arranged order of other names and without invalidating the election. Any inadvertent error in the order of names discovered too late to correct the order of the names on the ballots concerned shall not invalidate an election.

Except where a contest or candidate is removed from the ballot by court order too late to make complete compliance with this paragraph feasible, the title of each public office or party position and the names of the candidates for such office or position appearing on any voting machine used for primary elections in the city of New York shall appear on such machine immediately adjacent to one another, either horizontally or vertically; and no blank spaces shall separate the names of candidates actually running for an office or party position on such voting machine, and no blank spaces shall separate any two such offices or positions which appear on such voting machine in the same column or row.]

S 19. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.